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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 NIDHAL K.,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,

12 Defendant.

CASE NO. C18-28-BAT

**ORDER REVERSING AND  
REMANDING FOR FURTHER  
ADMINISTRATIVE PROCEEDINGS**

13 Plaintiff Nidhal K. seeks review of the denial of her application for Supplemental  
14 Security Income. She contends the ALJ erred by misevaluating the medical evidence, failing to  
15 find certain impairments were severe, and finding she could perform light work. Dkt. 12. The  
16 Court **REVERSES** the Commissioner's final decision and **REMANDS** the matter for further  
17 administrative proceedings under sentence four of 42 U.S.C. § 405(g).

18 **BACKGROUND**

19 Plaintiff is currently 52 years old, has a high school education, and has no past relevant  
20 work. Tr. 49, 60. She applied for benefits in August 2014, alleging disability as of October 2010.  
21 Tr. 174. After her application was denied initially and on reconsideration, the ALJ conducted a  
22 hearing and, on November 17, 2016, issued a decision finding plaintiff not disabled. Tr. 20-35.  
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1 The Appeals Council denied plaintiff's request for review, making the ALJ's decision the  
2 Commissioner's final decision. Tr. 1.

### 3 THE ALJ'S DECISION

4 Utilizing the five-step disability evaluation process,<sup>1</sup> the ALJ found that plaintiff had not  
5 engaged in substantial gainful activity since the application date, she had the following severe  
6 impairment: status post OIRF right shoulder with ongoing arthritis, and this impairment did not  
7 meet or equal the requirements of a listed impairment.<sup>2</sup> Tr. 22, 27. The ALJ found that plaintiff  
8 had the residual functional capacity to lift/carry and push/pull up to 20 pounds occasionally and  
9 up to 10 pounds frequently, using both arms together; if she used her right arm only to lift/carry  
10 she could lift 10 pounds occasionally and seldom lift 15 pounds; she could stand/walk six hours  
11 in an eight-hour workday with regular breaks; she had no limitation in her ability to sit; she could  
12 occasionally push/pull within these exertional limitations; she had an unlimited ability to climb  
13 ramps and stairs, but should never climb ladders, ropes, or scaffolds; she had an unlimited ability  
14 to balance and could frequently stoop, kneel, crouch, and crawl; she should not reach or work  
15 overhead with her right dominant arm; she may use her right arm for keyboarding or other fine  
16 motor skill tasks for one hour at a time, up to six hours; she could occasionally reach with her  
17 right dominant arm in all directions; she should avoid concentrated exposure to extreme cold,  
18 vibrations, fumes, odors, dusts, gases, and poor ventilation. Tr. 27. The ALJ found that plaintiff  
19 had no past relevant work but, as there were jobs that existed in significant numbers in the  
20 economy that she could perform, she was not disabled. Tr. 34-35.

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23 <sup>1</sup> 20 C.F.R. §§ 404.1520, 416.920.

<sup>2</sup> 20 C.F.R. Part 404, Subpart P. Appendix 1.

## DISCUSSION

### A. Medical evidence

Plaintiff argues that the ALJ erred by failing to properly evaluate the opinions of examining and treating doctors Lynn Staker, M.D., Lawrence Holland, M.D., James Symonds, M.D., and J. Dalton, M.D., and by failing to give adequate explanation for not giving these opinions more weight. Dkt. 12 at 2.

In general, the ALJ should give more weight to the opinion of a treating doctor than to that of a non-treating doctor, and more weight to the opinion of an examining doctor than to that of a non-examining doctor. *Lester v. Chater*, 81 F.3d 821, 830 (9th Cir. 1996). The ALJ must give specific and legitimate reasons for rejecting a treating or examining doctor's opinion that is contradicted by another doctor, and clear and convincing reasons for rejecting a treating or examining doctor's uncontradicted opinion. *Id.* at 830-31. An ALJ does this by setting out a detailed and thorough summary of the facts and conflicting evidence, stating her interpretation of the facts and evidence, and making findings. *Magallanes v. Bowen*, 881 F.2d 747, 751 (9th Cir. 1989). The ALJ must do more than offer her conclusions; she must also explain why her interpretation, rather than the treating doctor's interpretation, is correct. *Orn v. Astrue*, 495 F.3d 625, 632 (9th Cir. 2007) (citing *Embrey v. Bowen*, 849 F.2d 418, 421-22 (9th Cir. 1988)).

#### 1. Dr. Staker

Dr. Staker examined plaintiff in June 2014 and opined that plaintiff was severely limited and unable to meet the demands of sedentary work. Tr. 275-77. He found decreased range of motion and weakness of her shoulder. Tr. 278. He opined that plaintiff's impairment was permanent and that with the language barrier and this disability, he did not see where plaintiff would be employable. Tr. 277, 279.

1           The ALJ gave this opinion little weight, finding that it was not consistent with the overall  
2 evidence in the record including plaintiff's benign examination findings. Tr. 33. The ALJ  
3 identified these examination findings to include findings of nonorganic giveaway weakness;  
4 intact sensation for light touch, pinprick, vibration and joint position perception; full strength  
5 throughout both upper extremities without atrophy; normal reflexes; no crepitus; normal shrug;  
6 and normal strength in the wrist and hands. Tr. 33-34.

7           Plaintiff argues that the evidence the ALJ cited to in support of this finding was weak and  
8 misleading, not representative of the record as a whole, and included records that did not contain  
9 the findings the ALJ claimed. Dkt. 12 at 4. The court agrees. An ALJ may give less weight to an  
10 opinion that is inconsistent with other evidence in the record. *Batson v. Comm'r of Soc. Sec.*  
11 *Admin.*, 359 F.3d 1190, 1195 (9th Cir. 2004). But the ALJ cited to evidence that was consistent  
12 with Dr. Staker's opinion and, where it was inconsistent, the ALJ failed to explain how the  
13 inconsistency was connected to or undermined Dr. Staker's opinion.

14           The ALJ cited to a neurological examination for headaches, which noted intact sensation  
15 for light touch, pinprick, vibration and joint position perception, normal reflexes, and normal  
16 shrug. Tr. 104. But the ALJ made no connection between these neurological findings and  
17 plaintiff's shoulder impairment. The ALJ cited to an examination that found decreased motor  
18 strength in the entire right upper extremity including the right hand and grip. Tr. 462. But the  
19 ALJ stated that the record shows normal strength in the wrist and hands. And the ALJ cited to  
20 treatment notes that recorded decreased range of motion, tenderness, swelling, pain, and  
21 decreased strength in her right shoulder. Tr. 593, 601, 610. But the ALJ found that the record  
22 shows full strength throughout both upper extremities. In short, the ALJ listed several findings  
23 that she stated were inconsistent with Dr. Staker's opinion, but which in fact were consistent

1 with it. And the ALJ failed to explain how other findings were inconsistent with Dr. Staker's  
2 findings or why the other doctors' findings should be accorded more weight than Dr. Staker's.  
3 For all of these reasons, this finding is not supported by substantial evidence and is insufficient  
4 to reject an examining doctor's opinion.

5       The ALJ also found that Dr. Staker's statement that plaintiff is unemployable due to her  
6 language barrier as well as her disability was inconsistent with two notes in the record: one  
7 treatment note stating that plaintiff speaks moderate English and another treatment note stating  
8 that plaintiff had excellent English comprehension and no language barrier. Tr. 34. Plaintiff  
9 argues that this finding ignored the overwhelming evidence that showed that plaintiff was  
10 assisted by an interpreter in at least 18 different treatment encounters, the fact that she stated she  
11 required an interpreter when the ALJ attempted to conduct the hearing without using the  
12 interpreter's service, and her testimony that she did not speak or read much English. Dkt. 12 at 7.  
13 Respondent asserts that records regarding the use of an interpreter generally do not describe her  
14 ability to speak English and state only that an interpreter was used, and that, in any event, the  
15 vocational expert testified that lack of language proficiency would not preclude all of the work  
16 he identified. Dkt. 16 at 3.

17       The ALJ identified the two instances in the record that describe plaintiff as at least  
18 moderately able to communicate in English. At a visit in May 2016, Jiang Wu, M.D., stated:  
19 "Given her excellent English and comprehension, there is no language barrier." Tr. 594. And at a  
20 visit in June 2015, David Judish, M.D., stated plaintiff is a "Jordanian woman who speaks  
21 moderate English, but she was assisted in communication throughout by interpreter." Tr. 659.  
22 But the vast majority of the references to plaintiff's language skills throughout the record  
23 indicate that she required an interpreter in order to conduct her medical appointments. The ALJ's

1 cherry-picked instances do not undermine the weight of the evidence. And the fact that the VE  
2 testified that the jobs he identified could be performed without language proficiency is irrelevant  
3 to the ALJ's finding, as it does not demonstrate inconsistency with Dr. Staker's opinion.

4 The ALJ failed to provide valid reasons, supported by substantial evidence, for rejecting  
5 Dr. Staker's opinion.

6 2. *Dr. Holland*

7 In July 2015, treating orthopedist Dr. Holland wrote a letter in which he stated that  
8 plaintiff had a "shoulder injury that prevents her from being able to use her arm except at her  
9 side," and she "cannot do things where she has to work with her hands away from the side of her  
10 body." Tr. 631. The ALJ gave this opinion little weight for the same reason as Dr. Staker's  
11 opinion—that it was not consistent with the overall evidence in the record including the benign  
12 examination findings identified above. Tr. 33. As with Dr. Staker's opinion, this was not a valid  
13 reason, supported by substantial evidence, to reject the opinion.

14 The ALJ also found that Dr. Holland's opinion was based on plaintiff's subjective  
15 statements and not consistent with orthopedic specialist statements that she should have an  
16 improvement with physical therapy exercises to increase her range of motion and reduce her  
17 pain. Tr. 34. The ALJ cited to two treatment notes to support this finding. The first was Dr.  
18 Holland's November 2014 note. At that visit, Dr. Holland found decreased range of motion and  
19 moderate weakness in plaintiff's right shoulder; he stated that he would recommend physical  
20 therapy and modification of her activities, as it was not something for which there is known  
21 surgery. *Id.* The second was a September 2015 note from Winston Warne, M.D. Tr. 548. Dr.  
22 Warne stated that he did not think a surgical intervention was warranted and recommended that  
23

1 she continue with the exercises she had learned in physical therapy. Tr. 548. He believed that as  
2 her range of motion improved, her pain would decrease. *Id.*

3 An ALJ may give less weight to a medical opinion that is based to a large extent on a  
4 claimant's self-reports that have been properly discounted as incredible. *Tommasetti v. Astrue*,  
5 533 F.3d 1035, 1041 (9th Cir. 2008). But an ALJ does not provide adequate reasons for rejecting  
6 an examining physician's opinion by questioning the credibility of the patient's complaints  
7 where the doctor does not discredit those complaints and supports his ultimate opinion with his  
8 own observations. *Edlund v. Massanari*, 253 F.3d 1152, 1159 (9th Cir. 2001). Dr. Holland's  
9 treatment notes show that he conducted physical examinations and reviewed imaging studies in  
10 assessing plaintiff's condition; there is no suggestion in his notes that he questioned plaintiff's  
11 complaints or that he relied on them more than his own observations. Tr. 473-74, 538. This was  
12 not a valid reason to reject Dr. Holland's opinion.

13 An ALJ may give less weight to an opinion that is inconsistent with other evidence in the  
14 record. *Batson*, 359 F.3d at 1195. Here, although the ALJ identified Dr. Warne's treatment note  
15 as inconsistent with Dr. Holland's opinion, the ALJ did not explain how these doctors' opinions  
16 are inconsistent. Both Dr. Holland and Dr. Warne recommended against surgery and opined that  
17 plaintiff should engage in physical therapy. Because the ALJ did not explain how she interpreted  
18 these opinions to be inconsistent or the reason why she gave Dr. Warne's assessment more  
19 weight than Dr. Holland's (despite their similarities), this was not a valid reason to reject Dr.  
20 Holland's opinion.

21 The ALJ failed to provide valid reasons, supported by substantial evidence, for rejecting  
22 Dr. Holland's opinion.

1           3.       *Dr. Symonds*

2           Dr. Symonds examined plaintiff in December 2014. He opined that plaintiff could lift and  
3 carry 10 pounds occasionally and less than 10 pounds frequently, she could stand and walk for 6  
4 hours in an 8-hour workday and sit for 6 hours in an 8-hour workday, and there should be  
5 frequent changes in the sitting and standing position. Tr. 464. He opined that plaintiff could  
6 occasionally stoop and never kneel or crouch, she could never reach with her right arm, and she  
7 could occasionally grasp and grip with her right hand because of 3/5 motor strength. *Id.*

8           The ALJ gave Dr. Symonds's opinion partial weight, finding that it was not consistent  
9 with the overall evidence including plaintiff's exam findings and the findings of orthopedic  
10 specialist and surgeons. Tr. 32-33. The ALJ agreed that plaintiff required limitation to the use of  
11 her right arm, but found that using both arms together she could lift more weight than Dr.  
12 Symonds opined. Tr. 33.

13           The ALJ identified the same evidence discussed above as inconsistent with Dr. Symonds  
14 findings. *Id.* This evidence includes Dr. Symonds's own examination notes, which the ALJ listed  
15 as including the observation that plaintiff had "no difficulty" getting into and out of a chair. *Id.*  
16 However, Dr. Symonds's actual observation was that plaintiff got in and out of a chair with  
17 "little difficulty" and onto and off of the examination table with "little to moderate difficulty."  
18 Tr. 460. The ALJ thus used an inaccurate characterization of Dr. Symonds's own examination  
19 findings to undermine his opinion. For this reason and the reasons discussed above, this was not  
20 a valid reason to reject the opinion.

21           The ALJ also stated he gave more weight to the opinions of Dr. Judish and "orthopedic  
22 specialist and surgeons" because they generally found little limitations with the use of her right  
23 arm and recommended only conservative treatment, including physical therapy. Tr. 33. In



1 support of this finding, in addition to citing to the opinions of Dr. Judish and orthopedic  
2 surgeons, the ALJ cited to treatment notes from an ARNP, a physician assistant, and an  
3 acupuncturist—providers who are neither orthopedic specialists nor surgeons. Tr. 336, 348, 651,  
4 654. The ALJ cited to a list of medical visits and a referral to an orthopedic clinic. Tr. 334, 338.  
5 And the ALJ cited to Dr. Holland’s opinion, which the ALJ rejected on the same page she cited it  
6 as support for this finding. Tr. 33. It is unclear how these treatment notes and records relates to  
7 Dr. Symonds’s opinion or the ALJ’s reasons for rejecting it. These citations do not provide  
8 support for this finding and instead undermine the ALJ’s stated reason for rejecting Dr.  
9 Symonds’s opinion.

10 Dr. Judish, an examining physical medicine-rehabilitation specialist, opined that plaintiff  
11 could lift and carry up to 10 pounds occasionally and 15 pounds seldom with her right arm, with  
12 no overhead reaching with that arm. Tr. 569-71. The ALJ found that Dr. Judish’s opinion was  
13 generally consistent with the overall record. Tr. 32. But the ALJ’s decision to give Dr. Judish’s  
14 opinion more weight than Dr. Symonds’s is based on the ALJ’s unsupported finding that Dr.  
15 Symonds’s opinion was not consistent with the overall evidence. Because that finding was  
16 invalid, the ALJ’s reason for giving more weight to Dr. Judish’s opinion is likewise invalid.

17 Orthopedic surgeons at a shoulder and elbow clinic found that after four previous  
18 shoulder surgeries, further surgery was not warranted and recommended treatment in a pain  
19 management clinic and continued physical therapy to improve range of motion and decrease  
20 pain. Tr. 548, 612. The orthopedic surgeons did not opine as to functional limitations on  
21 plaintiff’s use of her right arm. The ALJ fails to explain how a recommendation against surgery  
22 and for physical therapy undermines Dr. Symonds’s opinion about plaintiff’s functioning.

1 In sum, the ALJ failed to provide valid reasons, supported by substantial evidence, for  
2 rejecting Dr. Symonds's opinion.

3 4. *Dr. Dalton*

4 Dr. Dalton reviewed the record in July 2014 and opined that plaintiff could perform  
5 sedentary work. Tr. 284. The ALJ again gave this opinion little weight for the same reason as Dr.  
6 Staker's opinion—that it was not consistent with the overall evidence in the record including the  
7 benign examination findings identified above. Tr. 33. And again, as with Dr. Staker's and Dr.  
8 Holland's opinion, this was not a valid reason, supported by substantial evidence, to reject the  
9 opinion.

10 **B. Severe impairments**

11 Plaintiff argues that the ALJ erred by finding that her headaches, knee problems, and  
12 history of laceration of her right forefoot were not severe impairments. Dkt. 12 at 13. At step  
13 two, a claimant must make a threshold showing that (1) she has a medically determinable  
14 impairment or combination of impairments and (2) the impairment or combination of  
15 impairments is severe. *See Bowen v. Yuckert*, 482 U.S. 137, 146 (1987); 20 C.F.R.  
16 § 404.1520(c), 416.920(c). An impairment is medically determinable if it results from  
17 anatomical, physiological, or psychological abnormalities which can be shown by medically  
18 acceptable clinical and laboratory diagnostic techniques. 20 C.F.R. § 404.1508. An impairment  
19 or combination of impairments can be found “not severe” only if the evidence establishes a slight  
20 abnormality that has no more than a minimal effect on an individual's ability to work. *Smolen v.*  
21 *Chater*, 80 F.3d 1273, 1290 (9th Cir. 1996). The step-two inquiry has been characterized as “a *de*  
22 *minimis* screening device to dispose of groundless claims.” *Id.*

1           1.       *Headaches*

2           The ALJ found that plaintiff had sporadic reports of headaches throughout the record and  
3 testified that she had headaches three times a week that last two to three days with dizziness  
4 every day and falls with the headaches. Tr. 24. The ALJ found that her allegations were  
5 inconsistent with the medical records, which showed that plaintiff began reporting headaches  
6 around October 2014 but by December 2014 she reported that they were only occasional, had  
7 improved, and were treated with Imitrex. *Id.* The ALJ found that after this, there was no more  
8 mention of headaches in the record. Tr. 25. The ALJ found that based on the lack of treatment  
9 and lack of ongoing reports of problems with headaches, the impairment did not cause more than  
10 a minimal limitation on plaintiff's ability to engage in work-related activity. *Id.*

11           Plaintiff argues that the ALJ's finding is erroneous because, contrary to the ALJ's  
12 finding, she reported having migraines after December 2014. Dkt. 12 at 14. She further asserts  
13 that while the condition did improve, it continued to have more than a minimal effect on her  
14 ability to work. *Id.* She points to three additional references to headaches in the record: In June  
15 2015 she reported to Dr. Judish that she had migraines once a week. Tr. 570. And in March and  
16 May 2016, neurological assessments found her positive for dizziness and headaches. Tr. 589,  
17 598.

18           Although plaintiff points to three references to headaches in the record that the ALJ did  
19 not discuss, merely pointing to the existence of these notes is insufficient to establish harmful  
20 error at step two. Where step two has been resolved in the claimant's favor, harmful error occurs  
21 only if plaintiff can establish that the ALJ failed to properly analyze evidence that shows work-  
22 related limitations beyond those assessed in the RFC finding. *See Molina v. Astrue*, 674 F.3d  
23

1 1104, 1115 (9th Cir. 2012). The mere existence of an impairment is insufficient proof of a  
2 disability. *Matthews v. Shalala*, 10 F.3d 678, 680 (9th Cir. 1993).

3 The evidence plaintiff identifies does not discuss the severity or any limiting effects of  
4 her headaches. Even if this evidence establishes that, contrary to the ALJ's finding, her  
5 headaches persisted beyond December 2014, it does not establish anything more than the  
6 existence of headaches beyond that date. Because plaintiff has failed to identify any evidence of  
7 limitations from headaches that the ALJ failed to consider, any error here is harmless.

8 2. *Knees*

9 The ALJ found that imaging of plaintiff's knees revealed only mild findings,  
10 examinations of her knees and gait were essentially normal, she received conservative treatment  
11 without any recommendations for an invasive procedure, and she reported that a knee brace and  
12 physical therapy helped relieve her knee pain. Tr. 23. The ALJ therefore found that her knee  
13 problems did not cause more than a minimal limitation on plaintiff's ability to engage in work  
14 related activity. *Id.*

15 Plaintiff argues that in making this finding, the ALJ disregarded Dr. Judish's opinion—  
16 which she otherwise adopted—that restrictions due to plaintiff's knee and foot conditions were  
17 reasonable and that she should only stand and walk one hour at a time for six hours in an eight-  
18 hour day. Dkt. 12 at 15. Plaintiff also points to Dr. Symonds's opinion that plaintiff could stand  
19 and walk for six hours and sit for six hours in an eight-hour day, and Dr. Dalton's opinion that  
20 she could sit for most of the day and walk or stand for brief periods; the ALJ did not discuss  
21 these opinions at step two. *Id.* And plaintiff asserts that the ALJ again cited to records that do not  
22 support the ALJ's finding. *Id.*

1 When assessing plaintiff's RFC, the ALJ rejected the portion of Dr. Judish's opinion  
2 regarding standing and walking limitations, finding that it was not consistent with the overall  
3 record, which failed to support any severe impairment that would warrant these limitations. Tr.  
4 32. The ALJ thus rejected the opinion because it did not comport with her step two finding,  
5 despite the fact that she failed to consider it at step two. In so doing, the ALJ relied on circular  
6 logic without properly analyzing the import of this opinion at either step two or the RFC  
7 assessment.

8 In addition, the court finds that the ALJ's errors in rejecting Dr. Symonds's and Dr.  
9 Dalton's opinions without valid reasons when assessing plaintiff's RFC equally applies to the  
10 ALJ's failure to consider them at step two.

11 The ALJ failed to properly consider all the evidence of plaintiff's knee impairment when  
12 evaluating its severity at step two. The ALJ must therefore reevaluate this impairment on  
13 remand.

### 14 3. *Right foot*

15 The ALJ found that although the record showed that plaintiff had tenderness and some  
16 pain in her right foot caused by a past laceration across the anterior of her right forefoot, the  
17 record did not show that she had difficulty with ambulation due to this diagnosis. Tr. 23. The  
18 ALJ found that the record failed to support a finding that this impairment caused more than a  
19 minimal limitation on her ability to engage in work-related activity. Tr. 23-24.

20 Plaintiff argues that Dr. Judish, Dr. Symonds, and Dr. Dalton all opined that plaintiff's  
21 right foot condition contributed to the standing and walking limitations they opined and the ALJ  
22 again failed to explain why she rejected these opinions. Dkt. 12 at 16. She further asserts that one  
23 record the ALJ cited as support for her finding actually stated that she ambulated "with

1 restrictions,” contrary to the ALJ’s description of the notes, and that the record contains  
2 numerous other notes documents her reports of pain in her foot and difficulty walking. *Id.*

3 As with plaintiff’s knee condition, the ALJ’s rejection of Dr. Judish’s opinion because it  
4 does not match the step two finding without having analyzed that opinion at step two, and the  
5 ALJ’s errors in rejecting Dr. Symonds’s and Dr. Dalton’s opinions render the ALJ’s finding  
6 about plaintiff’s foot condition invalid. The ALJ must also reevaluate the severity of this  
7 impairment on remand.

### 8 **C. RFC finding**

9 Plaintiff argues that substantial evidence does not support the ALJ’s RFC finding because  
10 of the errors in evaluating the medical evidence identified above. Dkt. 12 at 17. The court agrees.  
11 On remand, the ALJ must reevaluate the opinions of Dr. Staker, Dr. Holland, Dr. Symonds, and  
12 Dr. Dalton in reassessing plaintiff’s RFC.

13 Plaintiff further argues that, without explanation, the ALJ found plaintiff capable of  
14 performing heavier and more frequent lifting that Dr. Judish opined, despite the fact that the ALJ  
15 purported to give great weight to this opinion. *Id.* Dr. Judish opined that plaintiff could lift and  
16 carry up to 10 pounds occasionally and 15 pounds seldom with no overhead reaching with the  
17 right upper extremity, and that she had no lifting, carrying, or reaching limitations with her left  
18 upper extremity. Tr. 571. The ALJ adopted Dr. Judish’s opinion with respect to plaintiff’s right  
19 arm, but found that plaintiff could lift and carry and push and pull up to 20 pounds occasionally  
20 and 10 pounds frequently with both arms together. Tr. 27. Dr. Judish did not opine as to  
21 plaintiff’s ability to lift frequently with the right arm, and yet the ALJ found she could lift  
22 frequently with that arm so long as she also used her left arm. This finding does not comport  
23 with Dr. Judish’s opinion and should be reevaluated on remand.

1 Finally, plaintiff requests that the court direct a finding that she is disabled as of her 50th  
2 birthday. Dkt. 12 at 18. She bases this argument on the Medical-Vocational Guidelines, which  
3 direct a finding of disabled when a claimant reaches age 50, is limited to sedentary work, and has  
4 other vocational characteristics that match plaintiff's. *See* 20 C.F.R. Pt. 404, Subpt. P, Appx. 2,  
5 Rule 201.14. However, the court finds that the proper remedy in this case is to allow the ALJ the  
6 opportunity to reevaluate the evidence rather than to direct a finding of disability, even for a  
7 closed period. The Court therefore declines to direct a finding of disability as of plaintiff's 50th  
8 birthday.

### 9 CONCLUSION

10 The Commissioner's decision is **REVERSED** and this case is **REMANDED** for further  
11 administrative proceedings under sentence four of 42 U.S.C. § 405(g). On remand, the ALJ shall  
12 (1) reevaluate plaintiff's knee and foot impairments at step two, (2) reevaluate the medical  
13 opinions of Dr. Staker, Dr. Holland, Dr. Symonds, and Dr. Dalton and reassess plaintiff's  
14 residual functional capacity, and (3) further develop the record and reevaluate the evidence as  
15 needed to redo the disability evaluation process.

16 DATED this 5th day of November, 2018.

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19 BRIAN A. TSUCHIDA  
20 Chief United States Magistrate Judge  
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